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| APPLICATION NO. | FILING DA | TE FIR | ST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 2040 MAIN S FOURTEENT | H FLOOR | MCCROSK | MCCROSKY, DAVID J | | |
| IRVINE, CA | 92614 | | | ART UNIT | PAPER NUMBER |
| | | | | 3736 | |
| | | | | DATE MAILED: 03/19/2003 | DATE MAILED: 03/19/2003 |

Please find below and/or attached an Office communication concerning this application or proceeding.

| Application No. 10/054,099 Examiner David J. McCrosky 3738 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATULORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE of THIS COMMUNICATION. Extensions of fine may be available under the provisions of 37 CRF 1.136(a). In no event, however, may a reply be limited that after SKI, 04/05/15 protein and past of 13 CRF 1.136(a). In no event, however, may a reply be limited that of the period for reply specially also are 15 KI, 04/05/15 protein and past of 13 CRF 1.136(a). In no event, however, may a reply be limited that of the period for reply specially also are 15 KI, 04/05/15 protein and the 15 KI, 04/05/15 protein and 15 KI, 04/05/15 protein and 15 KI, 04/05/15 protein | ' Y | 1 | Ν | | | | |
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| 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The grawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received. | A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a rep - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statut - Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b). | 136(a). In no event, however, may a reply be tir bly within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from e, cause the application to become ABANDONE | nely filed vs will be considered timely. It he mailing date of this communication. ID (35 U.S.C. § 133). | | | | |
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| 1) Notice of References Cited (PTO-892) | Attachment(s) | | | | | | |
| 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5) Notice of Informal Patent Application (PTO-152) 6) Other: | | 5) Notice of Informal | y (PTO-413) Paper No(s) Patent Application (PTO-152) | | | | |

Application/Control Number: 10/054,069

Art Unit: 3736

DETAILED ACTION

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: A) heart object (Figure 2); B) vascular circuit object (Figure 4); C) cardiopulmonary bypass object (Figure 7); and D) ventilator/lung object (Figures 9 and 11-13).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the

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case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

A telephone call was made to John Wurst on March 12, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

A telephone call was made to James Brueggemann on March 12, 2003 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. McCrosky whose telephone number is 703-305-1331. The examiner can normally be reached on Mon-Fri 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F. Hindenburg can be reached on 703-308-3130. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

DJM March 17, 2003

> MAX F. HINDENBURG SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 3700